EXPLANATION OF

03

# فروع الفقه

## Ibn Al-Mibrad

Shaykh Ahmad Musā Jibrīl

May Allah (سبحانه و تعلى) ease the affairs of the Shaykh, preserve him, love him, and safeguard him from all harm. May He (سبحانه و تعلى) keep him sincere and continue to shower his life and da'wah with His blessings and allow the Muslims to benefit from his da'wah until the Day of Judgement. May Allah make all his efforts weigh heavy on his scales, and make it an immense Sadaqah Jāriyah for him, his parents, and his family. May Allah facilitate the completion of this Sharh, and shower him with His aid always and forever.

SH_AHMAD_JIBRIL

SHAYKH_AHMAD_JIBRIL

T.ME/AHMAD_MUSA_JIBRIL

SHAYKH AHMAD MUSĀ JIBRĪL

SHAYKH AHMAD MUSĀ JIBRĪL

بسم الله الرحمان الرحيم الحمد لله

All praise is due to Allāh, and may the peace and blessings be upon the Messenger of Allāh, as for what follows:

Before we begin, let me note that we are going over this book in the order of the book, as students of 'Ilm do. Some may have studied Tahārah or the early chapters of the book, but it's always recommended to go over it again and again, going over the book formally and completely is the method of Tulāb-ul-'Ilm, and you always learn something new, or at least you refresh your memory

If we complete this course, inshā-Allāhu-ta'ālā, anyone who fully studies this course and understands and comprehends it, and asks when things are not clear will be able to stand on his feet in this science bi'thnillahi-ta'ālā, and attain knowledge directly from the mother books of the various Madhāhib of Fiqh. Like for example, in the Hanafi Madhhab, *Al-'Ikhtiyār Li Ta'līl Al-Mukhtār*, or in Al-Māliki Madhhab *Al-Sharh Al-Saghīr* or Al-Shafi'ī Madhhab *Tuhfatul-Muhtāj*, or the Hanābilah books *Al-'Iqnā'* or *Al-Tanqīh* or *Al-Mughni*. Or reference before that or after that. Of course, that's for those who know 'Arabi, those weak in 'Arabi should touch it up so they can use it to excel in this knowledge.

In the university level I was in the Sharī'ah section, which is the Fiqh section, it centers on this topic. Everything is taught but this topic is the main focus. You're taught the foundation, in fact I may go over more than what was originally taught in the Fiqh curriculum there. In the university or here, you're given the foundation, then you're expected to dwell with the reference books to excel, and it's your research after that that makes one a 'Alim, or one can recline back as a lazy failure as most of the graduates end up doing today. One needs patience and persistence. Because the start is not what interests many. Many would think it's obvious chapters – they know it all, and skip over it.

For example, some sisters may be eager to wanting to get into the chapter on marriage or Talāq or Khulu'. Some brothers are interested in the book on hudūd.
A Tālib 'Ilm takes it all with patience and persistence – that's one point. The second point is pertaining to memorizing the Matn or the Mutūn based on what I received of questions. We stressed the importance of memorizing Mutūn, and it's actually draining

because living in the west affects the fluent Arabic tongues who speak their language. So imagine when it's not one's mother tongue language.

The more practical way is to memorize one Matn in each Madhhab of course. Or memorize one – like this one – as a basis for all the Madhāhib, yes it's a Hanbali Madhhab Matn, but with the proper explanation it may suffice as a basis for all the Madhāhib as we'll attempt to do with our explanation inshā'Allāh-ta'ālā.

But one thing is that if you haven't finished the Qur'ān in memorization – you need to start with that. Put the memorization of this aside for now. Understand and learn this with us and you can memorize this in the future, but use your time to memorize the Qur'ān, as that is much more important, we don't have Talabit-'Ilm who don't memorize the Qur'ān.

In the future you can come back to memorizing this Matn or a similar Hanbali Matn, if you memorize any Hanbali Matn you'll be able to take what I explain, and fit it under that Matn just as it fits under this Matn here. And most likely, any summarized Matn from the other various Madhāhib as well inshā'Allāh.

You can always come back and memorize this. Memorizing is time consuming and it should be focused on the Qur'ān for those who do not have the Qur'ān memorized. You want to be among those who are told *"Recite and ascend as you recited in the dunyā. Verily, your rank is determined by the last verse you recite."*

Now the book here, he starts with the ten major points or index. Chapter one of the main heading is worships – 'Ibādah – he gave five subheadings – five matters that need to be addressed: Salāh, Zakāh, Sawm, Hajj, Jihād.

The first of those sub-headings is Salāh – and he broke that down into seven matters. You should follow the book closely, to avoid getting lost. Or you can do what I used to do when I studied similar books. I used to draw a sketch or a diagram, with boxes, and arrows, and circles, and more arrows, because the book branches off.

This entire book can be put into a diagram – but more essential is that you draw a diagram for what you've learned in that specific class, either before class or after class, that helps follow the Matn's outline, and it helps one focus better, and it helps one concentrate better as well. So now let's start with Salāh.

He said:

مدار الفقه على عشَرة اشياء

The spheres of Fiqh are ten and we translated them in the last halaqa, we didn't go over them in detail for a reason. Each one is a chapter – we'll go over each one in detail inshā'Allāh, in its own chapter.

الاول وفي العبادات

He said: The first of the spheres of Fiqh is worships, and he breaks that down into five categories.

وهي خمسة: الصلاةُ والزكاةُ والصومُ والحجُ والجهادُ

The acts of worship are five: الصلاةُ والزكاةُ والصومُ والحجُ والجهادُ

He broke down the major heading into those five subheadings.

الأول و منها الصلاة

The first of those sub headings – under the major (heading of worships) is Salāh.

وتشتمل أمورُها على سبعةِ اشياء:

Prayer consists of seven matters.

It's clear why he chose Salāh to be the first because it's the connection between a servant and Allāh (سبحانه و تعلى), it's a forgiveness of the sins, it's a brightness to the face, and brightness in the grave, and a brightness on Yawm Al-Qiyāmah, it's a sign of Ēmān, and it's the covenant that distinguishes between a Muslim and a kāfir, and its importance is signified in that it's among the last advice Rasūlul-Allāh (صلى الله عليه و سلم) gave on his death bed.

الاول و منها الصلاة

وتشتمل أمورُها على سبعةِ اشياء:

The Salāh contains seven matters – meaning everything pertaining to Salāh is included within these seven matters. 'Ulamā' went through Salāh and deduced and extracted the aspects of Salāh to place them under these seven categories. There is no

hadīth that says Salāh is built on these seven matters, so where did the 'Ulamā' get this from? That's just like what we mentioned when we mentioned the main index of this entire Matn. We said it's an outline 'Ulamā' deduced to make things easier to understand and memorize and teach and learn. What are the seven matters of Salāh?

شرطٌ

و ركنٌ

و واجبٌ

و سنةٌ

و مباحٌ

و مكروهٌ

و محرمٌ

You can say these with a Damatayn or a Kasratayn – both are linguistically correct. Mubāhun or Mubāhin, Makrūhun or Makrūhin. Muharamun or Muharamin.

He said Shart (شرطٌ): Shart is conditions, pre-requisites.
Rukn (ركنٌ) is a pillar.
Wājib (واجب) is a requirement or obligation.
Sunnah (سنة) is a recommendation.
Mubāh (مباح) is what's neither forbidden nor recommended – permissible act.
Makrūh (مكروه) is detested or disliked.
Muharram (محرم) is prohibited.
We'll go over these – we're not going over them in detail right now – because we'll go over these matters inshā'Allāh in more detail when he breaks them down further in the outline.

الاولُ: الشروطُ وهي ستةٌ

الاولُ منها الطَّهارة من الحدثِ

So first is a Shart – Shart is a condition, a pre-requisite. It's mentioned first because matters under this are matters that are to be done or initiated prior to the matter which is the worship of Salāh here. How they came to figure out what makes a Shart a Shart, is something that's studied in Usūl Al-Fiqh, that's why I defined what Usūl Al-Fiqh is, in the intro.

A Shart is a pre-requisite for our concern here. It's required before the commencement of the matter, which is here As-Salāh – it's a pre-requisite in order for Salāh to be valid. Shart is a condition, and it's something outside the 'Ibādah – precedes the 'Ibādah, and continues throughout the 'Ibādah all the way to the end. You will understand that statement with an example. Covering the 'Awrah, that's considered a Shart. It's not an actual part of the Salāh in the sense that everyone has covered their 'Awrah here – they're not even in Salāh.

You can't in any part of the Salāh uncover the 'Awrah, so it starts before the Salāh and continues throughout the entire Salāh all the way to the end. It's not like Rukū'. Rukū' is a short act of the Salāh, which is classified differently – it's not under Shurūt – we'll get to that inshā'Allāh. You do Rukū' then you move onto the next step. With covering the 'Awrah, it's needed all throughout the entire Salāh, and right before the Salāh starts.

Likewise Wudū', that's also a Shart. It's not a direct part of the internal acts of the Salāh, because everyone's on Wudū' right now, [but] we're not on Salāh. However, it must be maintained all throughout Salāh, and you can't begin your Salāh without it. Unlike Sujūd – Sujūd is classified differently, you do Sujūd as a short part of the Salāh and you move on to another act. And exactly like Wudū', and covering the 'Awrah, is facing the Qiblah. It starts before the Salāh and continues throughout, you must face the Qiblah all throughout.

A small simple note on Shart and Rukn and Wājib – we'll get to each of them individually inshā'Allāh in the proper spot. But a common denominator – for now – among them is you must do them, you get sinned if you purposely leave them out. If you forget or not – we'll deal with that when we explain each one on its own. But the common denominator is that you get sinned if you don't purposely do them.

The author said:

الاولُ: الشروطُ وهي ستةٌ

الاولُ منها الطَّهارة من الحدثِ

The Shurūt – the pre-requisites or conditions (of Salāh) are six:

They're actually really nine, he skipped three. The reason he skipped three is most likely because they're obvious or common or known – or because they're considered conditions for all other 'Ibadāt. While the six are specific for the conditions of Salāh here – and that's why he didn't mention them.

What are the ones he skipped? The first one is Al-Islām, one must be Muslim, because a 'Ibādah is not accepted from a Kāfir. Then 'Aql (عقل), [one] must be sane and conscious. The third one is Tamyīz (تمييز), they must be at the age of comprehension, which we'll get to Inshā'Allāh. He didn't mention them because they're common and popular and known. Why isn't purification accepted from – for example – the three, a kāfir or an insane [person] or a toddler? They have in common that they can't establish a Niyyah (intention). A kāfir's Niyyah is rejected, an insane [person] can't attain a Niyyah, a young child under the age of Tamyīz can't comprehend a Niyyah.

There is a small exception pertaining to that in the 'Ibādah of wealth, according to Mālikīyyah, and Ash-Shāfi'īyah, and Al-Hanābilah, and 'Atā', and Mujāhid and Ibn Sirīn, they said Zakāh of the wealth must be taken from the wealth of even a small baby or someone insane. Which we'll elaborate later on in Zakāh. But the exception here should be noted – why? Because we said those three are a pre-requisite for all 'Ibadāt – so we must hint to the exception.

How does a child or someone insane have wealth? A family member died and left him inheritance which somebody has the custody of, or someone left him a charity to live off for the rest of his life. There is also an exemption on Hajj. Hajj is exempted from those three matters because it's accepted from a Mumayiz – which is less than the age of comprehension. A parent or guardian makes the Niyyah on themselves and on the behalf of the young baby or infant. Because of the hadith that's in Sahīh Muslim, a woman lifted up her child and said:

*O Messenger of Allāh, would the child be credited for performing this Hajj? The messenger said: Yes, and you will get the reward.*

The baby would of course do the Hajj, and another Hajj after Takleef (after the age of puberty), but he and his parents get the reward.

The author said (رحمه الله):

الاولُ: الشروطُ وهي ستةٌ

الاولُ منها الطَّهارة من الحدثِ

The first of the six conditions is purification. Purification from ritual impurities.

Hadath is impurity, it deprives a Mukallaf of anything that requires Tahārah.

If you are familiar with other Mutūn or books of Fiqh, nearly most of them mention a chapter on purification before Salāh – the majority or most of them. A chapter on purification, then comes the chapter on the Salāh. The author here included that under the Salāh. That's within the discretion of the 'Ulamā'. They could start with purification because it's a pre-requisites to performing Salāh. Or they could start with Salāh and put the first pre-requisites under the Shurūt to be purification. The proof on Tahārah is in the Qur'ān and in the Sunnah. The Qur'ān – the Ayah everyone knows in Surat Al-Mā'idah:

يَـٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوٓاْ إِذَا قُمْتُمْ إِلَى ٱلصَّلَوٰةِ فَٱغْسِلُواْ وُجُوهَكُمْ وَأَيْدِيَكُمْ إِلَى ٱلْمَرَافِقِ وَٱمْسَحُواْ بِرُءُوسِكُمْ وَأَرْجُلَكُمْ إِلَى ٱلْكَعْبَيْنِ

وَإِن كُنتُمْ جُنُبًا فَٱطَّهَّرُواْ وَإِن كُنتُم مَّرْضَىٰٓ أَوْ عَلَىٰ سَفَرٍ أَوْ جَآءَ أَحَدٌ مِّنكُم مِّنَ ٱلْغَآئِطِ أَوْ لَـٰمَسْتُمُ ٱلنِّسَآءَ

فَلَمْ تَجِدُواْ مَآءً فَتَيَمَّمُواْ صَعِيدًا طَيِّبًا فَٱمْسَحُواْ بِوُجُوهِكُمْ وَأَيْدِيكُم مِّنْهُ

*O you who believe! When you intend to offer As-Salāt (the prayer), wash your faces and your hands (forearms) up to the elbows, rub (by passing wet hands over) your heads, and (wash) your feet up to ankles. If you are in a state of Janāba (i.e., had sexual discharge), purify yourself (bathe your whole body). But if you are ill or on a journey or any of you comes from answering the call of nature, or you have been in contact with women (i.e., sexual intercourse) and you find no water, then perform Tayammum with clean earth and rub therewith your face and hands.*

5:6

And the hadith on that is in Sahīh Bukhāri:

لاَ يَقْبَلُ اللَّهُ صَلاَةَ أَحَدِكُمْ إِذَا أَحْدَثَ حَتَّى يَتَوَضَّأَ

Allāh, does not accept the Salāh of any of you when you are defiled until you performed ablution.

The author (رحمه الله تعلى) said:

الاولُ: الشروطُ وهي ستةٌ

الاولُ منها الطَّهارة من الحدثِ

Tahārah is ritual bathing – Ghusl, Wudū', or sometimes that's replaced by Tayammum – dry ablution.

Purification is two types:
Tahārah from Hadath which is being defiled.
Or Tahārah from Najāsah which is impurity.

Right now we're talking about the Tahārah from the Hadath. Hadath is what makes one defiled and obligates Wudū' upon him to do the 'Ibādah of Salāh. Hadath here includes both the major and minor Hadath. The minor impurity is everything that necessitates Wudū', not Ghusl. For example, passing gas, or urinating, or defecation – those require Wudū'. Major impurity is what requires and entails Ghusl. Like purification from menstruation, and postpartum bleeding, or sexual intercourse. The author (رحمه الله تعلى) said:

ولا بد فيه من ثلاثةِ امورٍ

متطهرٌ

ومتطهر به

وطهارةٌ

وناقضٌ

ولا بد فيه من ثلاثةِ امورٍ

This pre-requisite of purification encompasses three matters. These are the pillars of purification:

Mutatahir (متطهرٌ): the performer of the purification
Mutataharun Bihī (متطهر به): The substance used for purification
Tahārah (طهارةٌ): The purification in itself
Nāqid (ناقضٌ): The nullifier of purification

The first three are pretty much clear, and we'll go over them in detail inshā'Allāh. He mentions the outline like I said – then he gets specific. This last term might be a bit confusing because he's mentioning the three pre-requisites of purification,

1. The performer of the purification
2. The substance
3. The purification itself

Then he mentions a fourth one, which is a nullifier. How does that nullifier fit in with the rest of these three prerequisites? He says, Nāqidun, to do a nullifier of Wudū'. What he means is that in order to perform purification, there must of had been something to nullify the purification. The more proper term, that he could've used to avoid confusion was "Mutataharun Minhu" – a cause of purification. Which could be urination, passing gas, or anything of that sort. So he said the prerequisites are three but mentioned four – it could be an error, or maybe he didn't consider the Nāqid to be among the three.

Then he began to go into some details, he starts general then he gets into detail. Now the details are on the performer of the purification – me and you who are performing the purification.

اما المتطهر فهو المكلف الخالي عن مانع حسي او شرعي

اما المتطهر فهو

The specifications of the one performing the purification.

المكلف

Every competent person above the age of puberty .

الخالي عن مانع حسي او شرعي

Who is not prevented by a tangible factor or a legitimate impediment.

As to the performer of purification, he said he must be a Mukallaf. Mukallaf means someone over the age of puberty. Mukallaf is an adult who's accountable, above the age of puberty. Accountable in Dunyā, in Sharī'ah if there was a Khilāfah, and accountable before Allāh (سبحانه و تعلى) if he gets to that age. An adult and sane person who is obligated to perform the ordained and refrain from the Harām, and who will be held accountable by Allāh (سبحانه و تعلى).

The author used the term Mukallaf, that may not be such an accurate term here. Requiring that the one performing the purification be a Mukallaf means an insane person can't do an acceptable purification – which is correct, an insane person is not accountable, and he can't do purification. But it also means a child – Mumayiz – can't perform purification which entails that his Salāh is not accepted. Because he can't do an acceptable purification.

What's a Mumayiz? It's a child under the age of Taklīf. A child who's not an accountable adult but someone younger, but is able to comprehend and distinguish between matters, which is generally around the age of seven, all the way until the age of puberty. When he then hits the age of puberty, he'll then be referred to as a Mukallaf. So when the author specifies only a Mukallaf's purification is accepted – that leaves out a Mumayiz, which is a young boy who can comprehend, and who the Messenger (صلى الله عليه و سلم) recommended we teach them Salāh, and part of Salāh is purification.

علموا الصبي الصلاة لسبع سنين

*Teach a boy Salāh (prayer) when he reaches the age of seven.*

When the author put the condition of Mukallaf, it means the purification of a Mumayiz is not accepted. When in fact the Messenger (صلى الله عليه و سلم) ordered us to teach them and order them to pray at that age of seven – which of course entails making Wudū'. Either the term was incorrect and should've been replaced with Mumayiz, or the author may have went along with the Māliki madhhab, who include a Mumayiz under a Mukallaf – they say a Mumayiz is not obligated to do the Salāh, but in such context he's included under the term of a Mukallaf and his Wudū' is accepted. The vast majority of 'Ulamā' do not refer to anyone below the age of puberty as a Mukallaf – they refer to him as a Mumayiz. The third explanation is that he may have used that term in the context of purification that is considered an obligation, its obligation on only a Mukallaf. And Salāh or its purification is not obligated on a Mumayiz. Meaning he didn't mention it in the context of a recommendation which would include a young boy, he's talking about what's an obligation, and it's not an obligation on a Mumayiz, it's only an obligation on one who is a Mukallaf.

Mukallaf means an adult, sane, Muslim – all those factors.

Let's go to the next sentence:

اما المتطهِر فهو المكلف الخالي عن مانع حسي او شرعي

The performer of purification is every adult, accountable, competent, person in full possession of his faculties (Mukallaf) – who is free from tangible factors or legitimate impediments.

So the next sentence is:

الخالي عن مانع حسي او شرعي

Who's free from tangible factors or legal impediments.

The person performing the purification must be

خالي عن مانع حسي

free from tangible factors.

Tangible factors here could include a wide variety of matters and encompass many issues. The Term Hisī (حسي) is tangible. What he means over here, it's like barriers that stops the water from reaching the flesh that one has to wash off as part of Ghusl or Wudū'. For example, nail polish, or paint that's over the hands or arms or anywhere

that is supposed to be washed for Wudū' or Ghusl. Or, you know, the mud that painters use to patch the walls – sometimes that sticks to skin and acts as a barrier – and it needs to be removed. Like dough, or glue and anything that deprives water from touching the skin. One must free himself of those tangible factors.

And a note on this is that one must attempt to remove as much as he can as possible. Sometimes there is a type of glue one can't remove – it's impossible to remove and it stays for days. If one did all they can (in trying to attempt to remove it) then it's permissible because of the Fiqh rule:

Hardships brings ease.

And it's all taken from the verse(s):

1 - 185 :[البقرة] ﴿ يُرِيدُ اللَّهُ بِكُمُ الْيُسْرَ وَلَا يُرِيدُ بِكُمُ الْعُسْرَ ﴾ [قوله تعالى:].
*Allāh intends for you ease, and He does not want to make things difficult for you.*
2 - 286 :[البقرة] ﴿ لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا وُسْعَهَا ﴾ [قوله تعالى:].
*Allāh burdens not a person beyond his scope.*
3 - 286 :[البقرة] ﴿ رَبَّنَا وَلَا تَحْمِلْ عَلَيْنَا إِصْرًا كَمَا حَمَلْتَهُ عَلَى الَّذِينَ مِنْ قَبْلِنَا رَبَّنَا وَلَا تُحَمِّلْنَا مَا لَا طَاقَةَ لَنَا بِهِ ﴾ [قوله تعالى:].
*Our Lord! Put not on us a burden greater than we have strength to bear.*
4 - 28 :[النساء] ﴿ يُرِيدُ اللَّهُ أَنْ يُخَفِّفَ عَنْكُمْ ﴾ [قوله تعالى:].
*Allāh wishes to lighten (the burden) for you*
5 - 78 :[الحج] ﴿ وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ ﴾ [قوله تعالى:].
*And has not laid upon you in religion any hardship*

And verses that pertain to that matter. Ibn 'Aqīl said, a tiny spec under the nail will render the Wudū' invalid – if it's a tiny thing that deprives what's under the nail to be wet, it will render the Wudū' invalid. However, Ibn Taymiyyah, and Al-Mardāwi had a different opinion. They adopted that something minor under the nails, even if it deprives water from touching that little tiny area does not invalidate the Wudū' because it's something widespread and common and known. And the Prophet ( صلى الله عليه و سلم) wouldn't delay teaching a matter widespread and common to the people.

Ibn Taymiyyah added, that what sticks under the nails is similar to minor blood or dough that may stick on the hand, very minor. So there is room for tiny dots for painters who wash and they end up seeing a tiny small dot or two of paint. According to Ibn Taymiyyah there is some leverage in that. The author then said:

الخالي عن مانع حسي او شرعي

The performer of the purification must be free from legitimate Shari'ī impediments.

We took the Hisī ones, what are the Shari'ī impediments here?

It means something like kufr. Because if a kāfir says, I made my Wudū', it's not accepted. That's a Shari'ī impendent, Māni' Shari'ī. Niyyah, if he washed himself just for the purpose of cleanliness without the Niyyah of Tahārah – [that's a] Māni' Shari'ī. Similar to that is a woman who takes a shower while she's on her menstrual cycle, or postpartum bleeding, if a woman takes a shower in that status and she cleans herself – it's not a Shari'ī purification because being on the menstrual cycle, or Nifās (postpartum bleeding) is a Māni' Shari'ī – it's an impediment.

A final side note, even though Wudū' does not remove the major impurity in such matters – because they need Ghusl – it does lessen it. Ghusl lessons the major impurity, how? It was the Sunnah of the Messenger (صلى الله عليه و سلم) when he was Junub (the major impurity) that he would make Wudū' before he ate or went to sleep. It doesn't remove the Janābah, but it lessons it for both a man and a woman according to the correct opinion.

We finished the performer of purification, and next is the substance used for purification which we'll take Inshā'Allāh in the next halaqah. I don't want to make this too long so these matters can sink in.

و صلى الله على سيدنا محمد و على آله و صحبه و سلم